REMARKS

Claims 1-20 were pending in this application.

Claims 1-20 have been rejected.

No claims have been amended.

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Claims 1-20 remain pending in this application.

Reconsideration of Claims 1-20 is respectfully requested in view of the following arguments, which the Applicants make in order to more particularly define the issues for appeal.

In Sections 1 and 2 of the April 21, 2005 Office Action, the Examiner rejected Claims 1-20 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Serial No. 09/858,245 (Publication No. 2002/0174431) to *Bowman et al.* (hereafter, simply *"Bowman"*) in view of U.S. Patent No. 6,442,570 to *Wu et al.* (hereafter, simply *"Wu"*). The Examiner asserted that the *Wu* reference teaches an auxiliary device (removable memory card 112) including sufficient storage for holding software to be downloaded (column 4, lines 30-34) and a connection between the wireless communication device and the auxiliary device wherein the software is to be downloaded to the auxiliary device and installed from the auxiliary device onto the wireless communications device (col. 4, lines 40-42). The Applicants respectfully submit that the Examiner mischaracterizes the teaching of the *Wu* reference.

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The Applicants direct the Examiner's attention to amended independent Claim 1, which

contains the following unique and non-obvious limitations:

> 1.   For use in a communications system, an apparatus for wireless software
> download to a wireless communications device capable of Internet access
> comprising:
>   an auxiliary device separate from the wireless communications device
> including sufficient storage for holding program code to be downloaded; and
>   a connection between the wireless communications device and the auxiliary
> device,
>   <u>wherein the program code to be downloaded is</u> retrieved from a remote server
> through a wireless connection for the wireless communications device to the
> auxiliary device and <u>installed from the auxiliary device onto the wireless
> communications device</u> (*Emphasis added*).

The Applicants respectfully assert that the above-emphasized limitations are not taught, suggested or

even hinted at in either the *Bowman* reference or the *Wu* reference, or in the combination of the

Bowman and *Wu* references.

The *Wu* reference discloses a portable computer containing applications that may be stored in

built-in memory or in a removable memory card that supplements the built-in memory. *See Wu, col.*

4, lines 50-52. The removable memory card may contain permanently installed applications stored in

ROM or downloaded programs stored in non-volatile memory. *See Wu, col 4, lines 36-42.* The built-

in memory is also described as non-volatile electronic memory—either RAM with a battery back-up

module or flash memory. *See Wu, col.8, lines 59-64.* The processor of the portable computer

executes its operating system from the built-in memory. *See Wu, col. 9, lines 1-2.* Application

programs are also executed from built-in memory. *See Wu, col. 9, lines 8-9 and 13-15.*

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Thus, the teaching of the *Wu* reference is a portable computer containing applications stored in non-volatile memory that is either built-in or located on removable memory cards. As is common in portable devices, the applications are executed directly from non-volatile memory, rather than being loaded into RAM for execution, as is done in larger, disk-based computers. While the *Wu* reference teaches downloading applications into removable memory cards providing supplemental memory, it does not teach installing the applications from the removable memory cards into the portable computer, as asserted by the Examiner. In contrast, Claim 1 recites program code downloaded through a wireless connection for a wireless communications device into an auxiliary device and then installed from the auxiliary device onto the wireless device.

As acknowledged by the Examiner, the *Bowman* reference does not teach these limitations of the Applicants' claimed invention. Therefore, Claim 1 recites limitations that are not disclosed, taught, suggested or even hinted at in either the *Bowman* reference or the *Wu* reference, or in the combination of the *Bowman* and *Wu* references. Claim 1 is therefore patentable over the *Bowman* and *Wu* references. Also, dependent Claims 2-7 depend from Claim 1 and contain all of the unique and non-obvious limitations recited in Claim 1. Claims 2-7 are therefore patentable over the *Bowman* and *Wu* references.

Furthermore, independent Claims 8 and 15 recite limitations that are analogous to the unique and non-obvious limitations recited in Claim 1 and are therefore patentable over the *Bowman* and *Wu* references. Finally, dependent Claims 9-14, which depend from Claim 8, and dependent Claims 16-20, which depend from Claim 15, contain all of the unique and non-obvious limitations recited in

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Claim 8 and Claim 15, respectively. This being the case, Claims 9-14 and Claims 16-20 are

patentable over the *Bowman* and *Wu* references.

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SUMMARY

For the reasons given above, the Applicant respectfully requests reconsideration and allowance of pending claims and that this Application be passed to issue. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *jmockler@davismunck.com*.
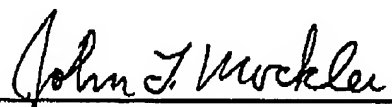
The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

DAVIS MUNCK, P.C.

Date: 5 Dec, 2005

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